THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2529 OF 2007

DATED: 13-02-2007

BETWEEN

Pallam Sathaiah,
S/o. Bakkaiah,
R/o. Venkatraopet Village,
Konaraopet Mandal,
Karimnagar District.

...PETITIONER

AND

The Superintendent of Police,
Karimnagar District, Karimnagar
and two others.

...RESPONDENTS

ORDER:

It is the case of the petitioner that he is resident of Venkatraopet village and that as he sustained loss in the business he filed insolvency proceedings in I.P.No.7 of 2006 before the Senior Civil Judge, Karimnagar on 07.02.2006 to declare him as insolvent. While the case was pending one Malavathu Panthulu Naik; Tirupathi of Vattimalla village and Bandi Mallesham of Jilla village, intercepted him and took one cheque bearing No.950645 and forcibly obtained signatures on some blank papers affixed with revenue stamps. Thereafter, they took him to their village at Vemulavada and threatened with dire consequences if he revealed the same to anyone. In that regard he made a written representation to the Superintendent of Police, Karimnagar and the same was forwarded for necessary action to the Sub-Inspect of Police, Konaraopet Police Station, in spite of the said report being forwarded to him by SP the third respondent neither registered a case nor took up

investigation. The petitioner further submits that when the third respondent refused to receive the written representation only then did he make a representation before the SP.

2. I am of the opinion that if the respondents have failed to exercise their statutory duty and if there is any disobedience of the directions of law in taking appropriate action, that itself would constitute an offence under Section 166 of the Indian Penal Code, 1860. However, whether a cognizable offence has been committed or not is a matter to be enquired into after considering the contents of the complaint. Based on the said written representation if no crime has been registered it is always open to the petitioner to file a private complaint under Section 200 read with 190 of the Code of Criminal Procedure, 1973, in which case the concerned Magistrate after examining the complainant and the witnesses shall take appropriate action in accordance with law. In view of the aforesaid alternative remedy available to the petitioner, I am of the not inclined to exercise extraordinary jurisdiction under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

February 13, 2007
DSK